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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,632	12/17/2003	Carlos Manzanares	47092.00138	3840
32294	7590	11/28/2007		
SQUIRE, SANDERS & DEMPSEY L.L.P. 14TH FLOOR 8000 TOWERS CRESCENT TYSONS CORNER, VA 22182			EXAMINER AHMED, SALMAN	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/736,632	<b>Applicant(s)</b> MANZANARES, CARLOS	
	<b>Examiner</b> Salman Ahmed	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 16 and 21 is/are rejected.
- 7) ☒ Claim(s) 13-15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1-21 are pending.

Claims 1-12, 16 and 21 are rejected.

Claims 4, 5, 13-15 and 17-20 are objected to

### ***Double Patenting***

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-9 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of copending Application No. 10/347383. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 2, 7, 9-11 and 21 are rejected under 35 U.S.C. 102(a) as being anticipated by Park et al. (US PAT PUB 2002/0006779, hereinafter Park).

In regards to claim 1, Park anticipates a method for controlling a mobile communications network by a hierarchical radio network operations system (FIG. 1 is a functional block diagram illustrating a configuration of an apparatus for managing a mobile communication network in an IMT-2000 system) with at least one radio network operations system (Figure 1, Control station 300) on a subordinate level and a radio network operations system (Figure 1, TMN network management center 100) on a superior level comprising the steps of initiating a controlling action on the part of the radio network operations system on the superior level (section 0049, TMN network management center 100 transfers the CMISE service executive instruction i.e. initiates a controlling action), generating a call for data depending on the controlling action (section 0053, generating the CMISE service executive instruction being the state information collection command), forwarding the call to at least one of the radio network operations systems on the subordinate level affected by the controlling action, - providing data on the part of the radio network operations system on the subordinate level affected by the controlling action in response to the call, and - forwarding the data to the radio network operations system on the superior level (section 0053, If the CMISE service executive instruction is the state information collection command in the S2-4, the local TMN repeater 301 within the pertinent control station 300 performs the state information collection operation as to the sub blocks 302 within the pertinent control

station 300 thereof or as to the sub blocks within the pertinent base station 400, and then transfers the result to the TMN network management center 100 (S2-5)).

In regards to claim 10, Park anticipates a hierarchical radio network operations system for controlling a mobile communications network (FIG. 1 is a functional block diagram illustrating a configuration of an apparatus for managing a mobile communication network in an IMT-2000 system), the hierarchical radio network operations system comprising at least one radio network operations system (Figure 1, Control station 300) on a subordinate level, a radio network operations system (Figure 1, TMN network management center 100) on a superior level, initiating means being part of the radio network operations system on the superior level arranged for initiating a controlling action (section 0049, TMN network management center 100 transfers the CMISE service executive instruction i.e. initiates a controlling action), call generating means arranged for generating a call for data depending on the controlling action (section 0053, generating the CMISE service executive instruction being the state information collection command), a first interface between radio network operations system on the subordinate level and radio network operations system on the superior level (Figure 1, bi-directional arrows (first interface) connecting, TMN Network Management Center 100 and control station 300 via TMN Repeater 200) arranged for forwarding the call to at least one of the radio network operations systems on the subordinate level affected by the controlling action and for forwarding data to the radio network operations system on the superior level (section 0053, If the CMISE service executive instruction is the state information collection command in the S2-4, the local

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TMN repeater 301 within the pertinent control station 300 performs the state information collection operation as to the sub blocks 302 within the pertinent control station 300 thereof or as to the sub blocks within the pertinent base station 400, and then transfers the result to the TMN network management center 100 (S2-5)).and first providing means being part of the radio network operations system on the subordinate level arranged for providing data in response to the call (section 0053, If the CMISE service executive instruction is the state information collection command in the S2-4, the local TMN repeater 301 within the pertinent control station 300 performs the state information collection operation as to the sub blocks 302 within the pertinent control station 300 thereof or as to the sub blocks within the pertinent base station 400, and then transfers the result to the TMN network management center 100 (S2-5)).

In regards to claims 2 and 11 Park anticipates executing the controlling action on the basis of the retrieved data (section 0062, the TMN network management center 100 manages the pertinent control station 300 and the pertinent base station 400 by means of the TMN method i.e. execute controlling action, upon receiving the state information concerning the sub blocks 302 within the pertinent control station 300 or the sub blocks 402 within the pertinent base station 400 from the local TMN repeater 301 within the pertinent control station 300 (S2-6)).

In regards to claim 7, Park anticipates the data demanded depending on the controlling action comprise network elements parameters and/or network resources parameters of the radio network on the subordinate level (section 0011, state information, such as configuration, fault, performance, statistics, etc.).

In regards to claims 9 and 21 Park anticipates radio network operations system on a subordinate level is an operations system for managing a regional radio network (Figure 1 and section 0026, each of control stations 300 manages multiple base stations 400 i.e. manages regional radio network).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park as applied to claims 1 and 10 above and further in view of Configuration Management; 3G configuration management; Concept and main requirements (3GPP TS 32.600 version 4.0.0 Release 4), hereinafter 3GPP TS 32.600) and Sabat Jr. et al. (US PAT PUB 2001/0037395, hereinafter Sabat).

In regards to claims 3 and 12 Park teaches retrieving data by the radio network operations system on the superior level from at least one of the radio network operations systems on the subordinate level (section 0053, If the CMISE service executive instruction is the state information collection command in the S2-4, the local TMN repeater 301 within the pertinent control station 300 performs the state information collection operation as to the sub blocks 302 within the pertinent control station 300

thereof or as to the sub blocks within the pertinent base station 400, and then transfers the result to the TMN network management center 100 (S2-5)).

Park does not explicitly teach exporting the retrieved data by the radio network operations system on the subordinate level.

3GPP TS 32.600 teaches exporting the retrieved data by the radio network operations system on the subordinate level (page 17 section 6.2.2. In addition to being able to provide information on request, the NE is required to have the capability of reporting i.e. export notifications about changed/removed information autonomously. Generally this will be performed when some information on the state or operation of the system has changed. The following shall be supported: The following type of events shall be notified to the NM, if enabled by the NM (these three notification types may be enabled/disabled separately by the NM): 1. Object creation/deletion; 2. Attribute value change; 3. State change)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Park's teaching to incorporate the steps of exporting the retrieved data by the radio network operations system on the subordinate level as suggested by 3GPP TS 32.600. The motivation is that it is advantageous to adapt to known standards for implementation of Network Management System (NMS) based communication for following reason: Companies actively involved in adhering to standards more frequently reap short- and long-term cost-savings and competitive benefits than those that do not. Standardization can lead to lower transaction costs in the economy as a whole, as well as to savings for individual businesses. Standards



have a positive effect on the buying power of companies. Standards can help businesses avoid dependence on a single supplier because the availability of standards opens up the market. The result is a broader choice for businesses and increased competition among suppliers. Companies also have increased confidence in the quality and reliability of suppliers who use standards. In addition, standards are used by businesses to exert market pressure on companies further down the value chain, i.e., their clients. Thus, businesses can use standards to broaden their potential markets.

Park and 3GPP TS 32.600 do not explicitly teach importing the data by the radio network operations system on the superior level, and storing the imported data to data storing means in the radio network operations system on the superior level.

Sabat in the same field of endeavor teaches teaching importing the data by the radio network operations system on the superior level, and storing the imported data to data storing means in the radio network operations system on the superior level (section 0015, the open network management system also provides a facility whereby information to which common access is needed maybe cached or accessed through database queries. In particular, the open access NMS can autonomously initiate queries (import) to the open access system elements to determine status information, and then place (store) this information in its own database).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Park and 3GPP TS 32.600's teaching to incorporate the steps of importing the data by the radio network operations system on the superior

level, and storing the imported data to data storing means in the radio network operations system on the superior level as suggested by Sabat. The motivation is that (as suggested by Sabat section 0015) this serves two purposes. First, when an SNMP request message is received from a tenant NMS, the local database can be queried for the information rather than sending request messages out to the system elements. This prevents unnecessary network traffic when a different tenant NMS's are making queries for common information such as, for example, fault states, temperature information and the like which should be sharable among the various system operators. A second benefit is provided in that relatively large amounts of data can be passed to the tenant NMS without crating correspondingly large amounts of traffic on the internal open access system communication network.

7. Claims 6, 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park as applied to claims 1 and 10 above and further in view of 3GPP TS 32.600.

In regards to claim 6 Park teaches a network management system (NMS) as described in the rejections of claims 1 and 10 above.

Park does not explicitly teach controlling action comprises monitoring and controlling a configuration of radio network elements and/or radio network resources.

3GPP TS 32.600 in the same field of endeavor teaches the system monitoring service component provides the operator with the ability to receive reports (on request or spontaneously) on the configuration of the entire network or parts of it from managed NEs. These consist of structure, states, versions employed and data settings. The NE

sends spontaneous reports if there was an autonomous change of, for example, the states or other values due to Fault Management (FM) actions (page 13 section 5.2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Park's teaching to incorporate the teachings of controlling action comprising monitoring and controlling a configuration of radio network elements and/or radio network resources as suggested by 3GPP TS 32.600. The motivation is that it is advantageous to adapt to known standards for implementation of Network Management System (NMS) based communication for following reason: Companies actively involved in adhering to standards more frequently reap short- and long-term cost-savings and competitive benefits than those that do not. Standardization can lead to lower transaction costs in the economy as a whole, as well as to savings for individual businesses. Standards have a positive effect on the buying power of companies. Standards can help businesses avoid dependence on a single supplier because the availability of standards opens up the market. The result is a broader choice for businesses and increased competition among suppliers. Companies also have increased confidence in the quality and reliability of suppliers who use standards. In addition, standards are used by businesses to exert market pressure on companies further down the value chain, i.e., their clients. Thus, businesses can use standards to broaden their potential markets.

In regards to claim 8, Park does not explicitly teach the data demanded depending on the controlling action comprise topology data of the radio network on the subordinate level.

3GPP TS 32.600 in the same field of endeavor teaches The system monitoring service component provides the operator with the ability to receive reports (on request or spontaneously) on the configuration of the entire network (topology) or parts of it from managed NEs. These consist of structure, states, versions employed and data settings (page 13 section 5.2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Park's teaching to incorporate the teachings of the data demanded depending on the controlling action comprise topology data of the radio network on the subordinate level as suggested by 3GPP TS 32.600. The motivation is that it is advantageous to adapt to known standards for implementation of Network Management System (NMS) based communication for following reason: Companies actively involved in adhering to standards more frequently reap short- and long-term cost-savings and competitive benefits than those that do not. Standardization can lead to lower transaction costs in the economy as a whole, as well as to savings for individual businesses. Standards have a positive effect on the buying power of companies. Standards can help businesses avoid dependence on a single supplier because the availability of standards opens up the market. The result is a broader choice for businesses and increased competition among suppliers. Companies also have increased confidence in the quality and reliability of suppliers who use standards. In addition, standards are used by businesses to exert market pressure on companies further down the value chain, i.e., their clients. Thus, businesses can use standards to broaden their potential markets.

***Allowable Subject Matter***

8. Claims 4, 5, 13-15 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salman Ahmed whose telephone number is (571) 272-8307. The examiner can normally be reached on 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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11/16/2007

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